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14  
15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**  
17 **SAN FRANCISCO DIVISION**

18 In re

19 No. 3:14-cv-01200-RS

20 PLANT INSULATION CO.,

21 Bankr. Case No. 3:09-BK-31347 TEC

22 Debtor.

23 Chapter 11

24 ONEBEACON INSURANCE CO., *et al.*,

Judge Seeborg

25 Appellants,

ORDER

26 v.

27 PLANT INSULATION CO., *et al.*,  
28 Appellees.

**JOINT STIPULATION REGARDING  
WAIVER OF EQUITABLE MOOTNESS AS  
TO APPEAL AND REVIEW OF MODIFIED  
CONFIRMATION ORDER**

DENTONS US LLP  
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1       The insurers identified in the signature block below (collectively, the "Insurers"), the Official  
2 Committee of Unsecured Creditors, (the "Committee"), debtor and debtor-in-possession Plant  
3 Insulation Company ("Plant") and the court-appointed representative of future asbestos claimants (the  
4 "Futures Representative") (collectively, the Committee, Plant, and the Futures Representative being  
5 referred to as the "Plan Proponents") (all of the above collectively referred to below as the "Parties"),  
6 by and through their respective undersigned counsel, hereby stipulate to the following:

7       1.       The Insurers have advised the Plan Proponents that they would seek a stay of the  
8 implementation of this Court's August 18, 2014 rulings in this case (the Order Affirming  
9 Confirmation of Revised Plan of Reorganization (Dkt. No. 77) and Order Denying Appeal From  
10 Confirmation of Revised Plan of Reorganization (Dkt. No. 76)) and the Bankruptcy Court rulings that  
11 were the subject of those August 18, 2014 rulings (the "Confirmation Order") pending an appeal of  
12 the Confirmation Order by the Insurers (the "Appeal") based on the Insurers' concern that if they do  
13 not seek and obtain a stay the appeal may be dismissed as moot, including on the doctrine commonly  
14 known as equitable mootness. The Plan Proponents have responded that they would oppose such a  
15 stay. As an alternative to proceeding with a motion for a stay, and in lieu of such motion, the parties  
16 have reached the stipulation set forth herein.

17       2.       The Plan Proponents are willing to stipulate that they will not file a motion to dismiss  
18 the Appeal based on mootness of any kind, as long as the Insurers agree to join in requesting that the  
19 Ninth Circuit expedite the hearing of the Appeal and in seeking a briefing schedule in the Ninth  
20 Circuit that is concluded as quickly as the schedule set for the Insurers' prior appeal to the Ninth  
21 Circuit. The parties are willing to so stipulate.

22       3.       The Plan Proponents agree that they will not seek to dismiss the Appeal or raise  
23 equitable mootness as a ground for disposition of the Appeal. Mootness, including the doctrine of  
24 equitable mootness, is waived as an issue in the Appeal. The Insurers agree that they will not seek to  
25 stay implementation of the Plan or delay the occurrence of the Modified Effective Date. The Insurers  
26 and the Plan Proponents shall request that the Ninth Circuit Court of Appeals expedite the Appeal

and the briefing schedule.

4. The Plan Proponents shall not contend that the failure to seek or obtain a stay of the Confirmation Order is a basis for any finding adverse to the Insurers.

IT IS SO STIPULATED.

|   |  |
|---|--|
| Bayside Insulation and Construction, Inc.,<br>formerly Plant Insulation Company, Debtor                           | Hon. Charles B. Renfrew (Ret.),<br>Futures Representative  |
| <p><u>/s/ George H. Kalikman</u><br/> George H. Kalikman, Esq.<br/> Schnader Harrison Segal &amp; Lewis LLP</p>   | <p><u>/s/ Gary S. Fergus</u><br/> Gary S. Fergus, Esq.<br/> Fergus, A Law Office</p>   |
| Official Committee Of Unsecured Creditors   | OneBeacon Insurance Company  |
| <p><u>/s/ Michael H. Ahrens</u><br/> Michael H. Ahrens, Esq.<br/> Sheppard, Mullin, Richter &amp; Hampton LLP</p> | <p><u>/s/ Philip A. O'Connell, Jr.</u><br/> Philip A. O'Connell, Jr.<br/> DENTONS US LLP</p>   |
|   | <p>And, for purposes of this stipulation only, on behalf of the following parties in interest and their counsel: American Home Assurance Company; Granite State Insurance Company, and Insurance Company of the State of Pennsylvania; Transport Indemnity Company; and United States Fidelity and Guaranty Company.</p> |

## IT IS SO ORDERED.

Dated: August 20 2014

  
HON. RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE